

**FY 2024**

**CONGRESSIONAL BUDGET JUSTIFICATION**

**WAGE AND HOUR DIVISION**

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# WAGE AND HOUR DIVISION

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# **WAGE AND HOUR DIVISION**

## **APPROPRIATION LANGUAGE**

### **SALARIES AND EXPENSES**

For necessary expenses for the Wage and Hour Division, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, [\$260,000,000] \$340,953,000, to remain available until September 30, 2025. (*Department of Labor Appropriations Act, 2023.*)

## **WAGE AND HOUR DIVISION**

### **EXPLANATION OF LANGUAGE CHANGE**

The Department requests two-year availability to increase flexibility for program execution. The annual uncertainty in the appropriations timing results in delayed hiring and rushed execution of contracts. The multi-year availability would reduce the impact of short-term continuing resolutions at no cost to the annual appropriations bill. This change would also enhance staff oversight of the programs they are administering.

## WAGE AND HOUR DIVISION

<b>AMOUNTS AVAILABLE FOR OBLIGATION</b>						
(Dollars in Thousands)						
	FY 2022 Revised Enacted		FY 2023 Revised Enacted		FY 2024 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
<b>A. Appropriation</b>	<b>1,260</b>	<b>\$251,000</b>	<b>1,267</b>	<b>\$260,000</b>	<b>1,656</b>	<b>\$340,953</b>
Reimbursements (CMP's)	0	\$2,800	0	\$2,800	0	\$2,800
H-1B L Fraud Fees (Collected)	138	\$48,000	207	\$50,000	207	\$50,000
Unexpired Unobligated Balances Carried Forward from Prior Year (P.L. 117-2)	120	\$13,358	65	\$8,116	0	\$0
<i>Subtotal</i>	<i>1,518</i>	<i>\$315,158</i>	<i>1,539</i>	<i>\$320,916</i>	<i>1,863</i>	<i>\$393,753</i>
<b>B. Gross Budget Authority</b>	<b>1,518</b>	<b>\$315,158</b>	<b>1,539</b>	<b>\$320,916</b>	<b>1,863</b>	<b>\$393,753</b>
Reimbursements (CMP's)	0	-\$2,800	0	-\$2,800	0	-\$2,800
H-1B L Fraud Fees (Collected)	-138	-\$48,000	-207	-\$50,000	-207	-\$50,000
Unexpired Unobligated Balances Carried Forward from Prior Year (P.L. 117-2)	-120	-\$13,358	-65	-\$8,116	0	\$0
<i>Subtotal</i>	<i>1,260</i>	<i>\$251,000</i>	<i>1,267</i>	<i>\$260,000</i>	<i>1,656</i>	<i>\$340,953</i>
<b>C. Budget Authority Before Committee</b>	<b>1,260</b>	<b>\$251,000</b>	<b>1,267</b>	<b>\$260,000</b>	<b>1,656</b>	<b>\$340,953</b>
Unexpired Unobligated Balances Carried Forward from Prior Year (P.L. 117-2)	119	\$13,358	65	\$8,116	0	\$0
Reimbursements (CMP's)	0	\$2,800	0	\$2,800	0	\$2,800
H-1B L Fraud Fees (Actual)	138	\$48,000	207	\$50,000	207	\$50,000
USMCA	1	\$0	0	\$0	0	\$0
<i>Subtotal</i>	<i>1,518</i>	<i>\$315,158</i>	<i>1,539</i>	<i>\$320,916</i>	<i>1,863</i>	<i>\$393,753</i>
<b>D. Total Budgetary Resources</b>	<b>1,518</b>	<b>\$315,158</b>	<b>1,539</b>	<b>\$320,916</b>	<b>1,863</b>	<b>\$393,753</b>
FTE Lapsed and Unobligated Balance Expiring	-34	-\$4,217	0	\$0	0	\$0
FTE Lapsed and Unobligated Balance Unexpired (P.L 117-2)	0	-\$4,069	0	\$0	0	\$0
<i>Subtotal</i>	<i>1,484</i>	<i>\$306,872</i>	<i>1,539</i>	<i>\$320,916</i>	<i>1,863</i>	<i>\$393,753</i>
<b>E. Total Estimated Obligations</b>	<b>1,484</b>	<b>\$306,872</b>	<b>1,539</b>	<b>\$320,916</b>	<b>1,863</b>	<b>\$393,753</b>

# WAGE AND HOUR DIVISION

## SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2023 Revised Enacted	FY 2024 Request	Net Change
<b>Budget Authority</b>			
General Funds	\$310,000	\$390,953	+\$80,953
<b>Total</b>	\$310,000	\$390,953	+\$80,953
 <b>Full Time Equivalents</b>			
General Funds	1,474	1,863	389
<b>Total</b>	1,474	1,863	389

Explanation of Change	FY 2024 Change							
	FY 2023 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Increases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Costs of pay adjustments	1,474	\$154,616	0	\$0	0	\$6,421	0	\$6,421
Personnel benefits	0	\$0	0	\$0	0	\$3,928	0	\$3,928
Employee health benefits	0	\$57,932	0	\$0	0	\$0	0	\$0
Moving allowance	0	\$0	0	\$0	0	\$0	0	\$0
Federal Employees' Compensation Act (FECA)	0	\$0	0	\$0	0	\$0	0	\$0
Benefits for former personnel	0	\$0	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$1,600	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$8	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$12,700	0	\$0	0	\$0	0	\$0
Rental payments to others	0	\$3	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$640	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$570	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$1,805	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$1,779	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$76,969	0	\$0	0	\$2,964	0	\$2,964
Other Federal sources (DHS Charges)	0	\$0	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$0	0	\$0	0	\$0	0	\$0
Research & Development Contracts	0	\$0	0	\$0	0	\$0	0	\$0
Operation and maintenance of facilities	0	\$10	0	\$0	0	\$0	0	\$0
Operation and maintenance of equipment	0	\$0	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$425	0	\$0	0	\$0	0	\$0
Equipment	0	\$270	0	\$0	0	\$0	0	\$0
Grants, subsidies, and contributions	0	\$0	0	\$0	0	\$0	0	\$0



## WAGE AND HOUR DIVISION

Explanation of Change	FY 2024 Change							
	FY 2023 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Insurance claims and indemnities	0	\$673	0	\$0	0	\$0	0	\$0
<b>Built-Ins Subtotal</b>	<b>1,474</b>	<b>+\$310,000</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$13,313</b>	<b>0</b>	<b>+\$13,313</b>
<b>B. Programs:</b>								
Enforcement FTE	175	\$25,968	0	\$0	175	\$25,968	175	\$25,968
Direct FTE	105	\$14,013	0	\$0	105	\$14,013	105	\$14,013
Restore and Strengthen WHD								
Workforce	0	\$0	0	\$0	100	\$12,931	100	\$12,931
Grade Restructure	0	\$0	0	\$0	0	\$7,069	0	\$7,069
IT Modernization	0	\$0	0	\$0	0	\$5,197	0	\$5,197
Worker Protection for Workers Under								
Temporary Visas	9	\$2,500	0	\$0	9	\$2,500	9	\$2,500
<b>Programs Subtotal</b>			<b>0</b>	<b>\$0</b>	<b>389</b>	<b>+\$67,678</b>	<b>389</b>	<b>+\$67,678</b>
<b>Total Increase</b>	<b>1,474</b>	<b>+\$310,000</b>	<b>0</b>	<b>\$0</b>	<b>389</b>	<b>+\$80,991</b>	<b>389</b>	<b>+\$80,991</b>
<b>Decreases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Federal Employees' Compensation								
Act (FECA)	0	\$0	0	\$0	0	-\$38	0	-\$38
<b>Built-Ins Subtotal</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$38</b>	<b>0</b>	<b>-\$38</b>
<b>B. Programs:</b>								
<b>Total Decrease</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$38</b>	<b>0</b>	<b>-\$38</b>
<b>Total Change</b>	<b>1,474</b>	<b>+\$310,000</b>	<b>0</b>	<b>\$0</b>	<b>389</b>	<b>+\$80,953</b>	<b>389</b>	<b>+\$80,953</b>

## WAGE AND HOUR DIVISION

<b>SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY<sup>1</sup></b>								
(Dollars in Thousands)								
	FY 2022 Revised Enacted		FY 2023 Revised Enacted		FY 2024 Request		Diff. FY24 Request / FY23 Revised Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Wage and Hour Division</b>	<b>1,230</b>	<b>251,000</b>	<b>1,267</b>	<b>260,000</b>	<b>1,656</b>	<b>340,953</b>	<b>389</b>	<b>80,953</b>
General Funds	1,230	251,000	1,267	260,000	1,656	340,953	389	80,953
<b>Wage Hour H-1B</b>	<b>134</b>	<b>48,000</b>	<b>207</b>	<b>50,000</b>	<b>207</b>	<b>50,000</b>	<b>0</b>	<b>0</b>
General Funds	134	48,000	207	50,000	207	50,000	0	0
<b>Total</b>	<b>1,364</b>	<b>299,000</b>	<b>1,474</b>	<b>310,000</b>	<b>1,863</b>	<b>390,953</b>	<b>389</b>	<b>80,953</b>
<b>General Funds</b>	<b>1,364</b>	<b>299,000</b>	<b>1,474</b>	<b>310,000</b>	<b>1,863</b>	<b>390,953</b>	<b>389</b>	<b>80,953</b>

NOTE: FY 2022 reflects actual FTE.

<sup>1</sup> Note: H-1B Fees - This account is not appropriated.

## WAGE AND HOUR DIVISION

<b>BUDGET AUTHORITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		FY 2022 Revised Enacted	FY 2023 Revised Enacted	FY 2024 Request	Diff. FY24 Request / FY23 Revised Enacted
	Full-Time Equivalent				
	Full-time Permanent	1,398	1,474	1,863	389
	<b>Total</b>	<b>1,398</b>	<b>1,474</b>	<b>1,863</b>	<b>389</b>
	Average ES Salary	\$191,034	\$199,312	\$207,438	\$8,126
	Average GM/GS Grade	12	12	12	0
	Average GM/GS Salary	\$94,453	\$99,213	\$98,896	-\$317
11.1	Full-time permanent	146,260	149,752	194,933	45,181
11.3	Other than full-time permanent	1,038	898	898	0
11.5	Other personnel compensation	3,882	3,966	3,966	0
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>151,180</b>	<b>154,616</b>	<b>199,797</b>	<b>45,181</b>
12.1	Civilian personnel benefits	57,013	57,932	85,543	27,611
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	3,264	1,600	1,600	0
22.0	Transportation of things	6	8	8	0
23.0	Rent, Communications, and Utilities	0	0	0	0
23.1	Rental payments to GSA	13,500	12,700	12,700	0
23.2	Rental payments to others	8	3	3	0
23.3	Communications, utilities, and miscellaneous charges	1,000	640	640	0
24.0	Printing and reproduction	600	570	570	0
25.1	Advisory and assistance services	3,604	1,805	1,805	0
25.2	Other services from non-Federal sources	1,700	1,779	1,779	0
25.3	Other goods and services from Federal sources 1/	62,037	76,969	79,933	2,964
25.4	Operation and maintenance of facilities	0	10	10	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	1,985	0	5,197	5,197
26.0	Supplies and materials	1,103	425	425	0
31.0	Equipment	1,000	270	270	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	1,000	673	673	0
	<b>Total</b>	<b>299,000</b>	<b>310,000</b>	<b>390,953</b>	<b>80,953</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	50,086	76,969	79,933	2,964
	DHS Services	6,034	0	0	0
	Services by DOL Agencies	5,917	0	0	0

## WAGE AND HOUR DIVISION

### AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	Expiration Date
PUB. L. 75-718	Fair Labor Standards Act of 1938, as amended.	29 U.S.C. 201-219	N/A
PUB. L. 74-846	Walsh-Healy Public Contracts Act, as amended (1936).	41 U.S.C. 6501-6511	N/A
PUB. L. 90-321	Consumer Credit Protection Act (Title III – Restriction on Garnishment) (1968).	15 U.S.C. 1671-1677	N/A
PUB. L. 87-581	Contract Work Hours and Safety Standards Act, as amended (1962).	40 U.S.C. 3701-3708	N/A
PUB. L. 89-286	McNamara-O’Hara Service Contract Act, as amended (1965).	41 U.S.C. 351-357	N/A
PUB. L. 74-403	Davis-Bacon Act, as amended and related acts (1931).	40 U.S.C. , Chapter 31, Subpart IV	N/A
PUB. L. 97-470	Migrant and Seasonal Agricultural Worker Protection Act (1983).	29 U.S.C. 1801-1872	N/A
PUB. L. 99-603	Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986.	8 U.S.C. 1324, 8 U.S.C. 1101(a), 1184(c), 1824, 29 U.S.C. 1802, 1813(a)	N/A
PUB. L. 100-347	Employee Polygraph Protection Act of 1988.	29 U.S.C. 2001 et seq	N/A
PUB. L. 103-3	Family and Medical Leave Act of 1993.	29 U.S.C. 2601, et. Seq.	N/A
PUB. L. 105-277	American Competitiveness and Workforce Improvement Act (ACWIA), Title IV of the Omnibus Consolidated and Emergency Supplemental Appropriation Act (1998).	Title IV, sec. 414(b) and (c)	N/A
PUB. L. 108-447	L-1 Visa and H-1B Visa Reform Act, Title IV of	Title IV, sec. 401-430	N/A

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	the Consolidated Appropriations Act, (2005).		
PUB. L. 89-209	National Foundation for the Arts and Humanities Act, Sections 5(i) and 7(g) (1965).	20 U.S.C. 954 (i) and 956 (g)	N/A

## WAGE AND HOUR DIVISION

<b>APPROPRIATION HISTORY</b>					
(Dollars in Thousands)					
	<b>Budget Estimates to Congress</b>	<b>House Allowance</b>	<b>Senate Allowance</b>	<b>Appropriations</b>	<b>FTE</b>
2014					
Base Appropriation	\$243,254			\$224,330	1,446
2015					
Base Appropriation	\$265,766			\$227,500	1,332
2016					
Base Appropriation	\$277,100	\$215,500	\$210,000	\$227,500	1,376
2017					
Base Appropriation	\$276,599			\$227,500	1,404
2018					
Base Appropriation	\$230,068	\$217,500		\$227,500	1,355
2019					
Base Appropriation...1/	\$230,068		\$229,000	\$229,000	1,297
2020					
Base Appropriation...2/3/	\$232,568	\$298,131		\$242,000	1,382
2021					
Base Appropriation...3/	\$244,283			\$246,000	1,340
2022					
Base Appropriation...4/	\$276,500	\$300,000		\$251,000	1,260
2023					
Base Appropriation	\$307,678	\$312,678		\$260,000	1,267
2024					
Base Appropriation	\$340,953				1,656

1/ This bill was passed by the Senate. It was passed out of the House Subcommittee but was not reported out of the House Committee or by the full House.

2/ This bill was passed by the House. It was not taken up by the Senate Appropriations Subcommittee or full Appropriations Committee.

3/ FTE for FY 2020 and FY 2021 reflect the Shared Services Realignment.

4/ This bill was passed by the House. It was not taken up by the Senate Appropriations Subcommittee or the full Senate Appropriations Committee.

NOTE: FTE shown only includes FTE funded from the WHD annual appropriation.

# WAGE AND HOUR DIVISION

## OVERVIEW

The mission of the Wage and Hour Division (WHD) is to promote and achieve compliance with labor standards to protect and enhance the welfare of the nation's workforce. WHD enforces wage protections, other labor standards and laws under 29 U.S.C. 201, et seq., so that America's workers receive the wages they earn as required by law and enable responsible and compliant businesses to fairly compete in the marketplace. Collectively, these laws cover most private, state, and local government employment and protect more than 165 million of America's workers in more than 11 million workplaces throughout the United States and its territories.

WHD enforces and administers:

- The minimum wage, overtime, child labor, recordkeeping, anti-retaliation, and time and space to pump breast milk at work provisions of the Fair Labor Standards Act (FLSA);
- The prevailing wage requirements and wage determination provisions of the Davis Bacon Act (DBA) and Related Acts (DBRA), the Service Contract Act (SCA), the Contract Work Hours and Safety Standards Act (CWHSSA), the Walsh-Healey Act, and the Copeland Act, an anti-kickback law;
- The wages and working conditions provisions of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA);
- The field sanitation and temporary labor camp standards in agriculture under the Occupational Safety and Health Act (OSH Act);
- The Family and Medical Leave Act (FMLA);
- The Employee Polygraph Protection Act (EPPA);
- The labor standards protections of the Immigration and Nationality Act (INA) for certain temporary nonimmigrant workers admitted to the U.S., including the labor standards of the H-1B, H-2A, and H-2B programs;
- The garnishment provisions of the Consumer Credit Protection Act (CCPA);
- The Labor Value Content (LVC) requirements of the United States-Mexico-Canada Implementation Act (USMCA);
- Executive Order 13658, Establishing a Minimum Wage for Contractors; and
- Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors.

WHD cannot fully advance its mission without addressing the impact of institutionalized and systemic inequities in the policies and programs administered by WHD. This includes understanding how the legacy of systemic racism and discrimination has impacted the communities most vulnerable to violations of labor laws. That legacy includes the FLSA of 1938, which excluded certain occupations from its protections. As a result, farmworkers, domestic workers, and occupations from several other priority industries have historically lacked basic minimum wage and overtime protections. Those occupational exclusions served as a proxy for the exclusion of certain categories of people, particularly Black workers. Many of those workers originally excluded from the FLSA are today's essential workers.<sup>2</sup>

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<sup>2</sup> Dixon, Rebecca, "From Excluded to Essential: Tracing the Racist Exclusion of Farmworkers, Domestic Workers, and Tipped Workers from the Fair Labor Standards Act," Hearing before the U.S. House of Representatives Education and Labor Committee, Workforce Protections Subcommittee, National Employment Law Project (NELP). May 3, 2021. Available: [NELP-Testimony-FLSA-May-2021.pdf \(pcdn.co\)](#).

## WAGE AND HOUR DIVISION

WHD prioritizes resources to achieve the greatest impact on compliance. Ample evidence shows investigations are effective in deterring violations and improving employer compliance with laws and regulations. WHD strengthens enforcement results through comprehensive, industry-based and worker-focused strategies, which include outreach and worker education, stakeholder engagement, strategic partnerships, and effective cross-agency collaborations to address the exploitation of the most vulnerable workers including children.

The President calls on Congress to provide the Federal government with the tools it needs to ensure employers are providing workers with good jobs—including jobs with fair and equal pay, safe and healthy workplaces, respect for the right to organize, and workplaces free from discrimination, retaliation, and harassment, including sexual harassment. To deter employers from violating workers' rights, ensure those who do violate their rights are held accountable, and level the playing field for responsible employers, the Budget proposes meaningfully increasing penalties at the Department of Labor for employers that violate workplace safety, health, wage and hour, and child labor laws.

President Biden also calls on Congress to require employers to provide seven job-protected paid sick days each year to all workers, and ensure that employers cannot penalize workers for taking time off to address their health needs or the health needs of their families or to seek safety from domestic violence, dating violence, sexual assault, or stalking.

The Budget proposes to establish a national, comprehensive paid family and medical leave program administered by the Social Security Administration. The Budget also includes \$10 million for the Women's Bureau to help States expand access to paid leave benefits, including through grants to support States in implementing new paid leave programs and technical assistance to share best practices among States.

In order to protect workers' rights afforded under the laws enforced by WHD, in FY 2024 WHD seeks to: 1) increase its workforce by 389 FTE over the FY 2023 Revised Enacted Level, 2) phase in a restructure of the Wage and Hour investigator (WHI)/supervisory investigator (SI) grade structure and 3) complete the modernization of its mission support systems and decommission legacy systems.

### **Restore and Strengthen WHD Workforce**

WHD is seeking an increase totaling \$55,412,000 and 389 FTE to unleash the full potential of WHD's enforcement activities. Over the last several years, WHD's total enforcement staff has significantly eroded from the peak level achieved in FY 2013. WHD is operating with one of the lowest investigator levels in the last fifty years largely due to constrained funding and escalating costs. While WHD adopted many new and innovative practices during the pandemic, the reduced staffing level results in fewer opportunities for on-site investigations, which has negatively impacted mission-critical activities. The current WHD staffing level is not sufficient to truly serve the needs of the nation's growing workforce. Rebuilding enforcement staff is critical for addressing compliance problems systemically. WHD uses strategic initiatives to effectively deploy all available resources—including media, enforcement, stakeholder outreach, strategic partnerships, and education—towards deterring violations and improving compliance. Initiatives



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are protecting essential workers across several industries, including the care economy, food services, residential construction, agriculture, building services, warehousing, and government contracts, with a cross-sector strategies specifically focused on addressing child labor and protecting those working under temporary visas. Additional resources would support and sustain the level of coordination necessary to carry out strategies at all levels of an industry and to fully leverage resources available through strategic partnerships.

**Increase and strengthen engagement with underserved communities.** WHD has long prioritized reaching low-paid workers that are most vulnerable to wage violations. However, the government-wide focus on equity has challenged WHD to evaluate all aspects of its work through the lens of equity. Outreach efforts under the Essential Workers Essential Protections campaign program uncovered many steps WHD can take to better reach underserved communities. Establishing equity as another critical dimension of WHD's work will require time and resources to develop and sustain. Steps the agency can take based on outreach thus far include seeking out new and different types of stakeholders who can serve as trusted intermediaries to communities, delivering information in multiple formats and types of media tailored to the unique features of different populations, and finding ways to meet members of underserved communities outside traditional settings for WHD offices and outreach.

**Deter violations and address the most egregious violations through impact cases.** Achieving sustained compliance and resolving egregious violations requires strong enforcement using all available tools, including liquidated damages, civil monetary penalties, debarment, and stopping the movement of goods produced in violation of the law. Consistent, effective enforcement, particularly when followed by media amplification, can deter violations beyond the investigated employer and improve recidivism rates. Cases involving retaliation and exploitive working conditions require additional time to develop, including building trust with workers and handling a lack of cooperation by employers. Since January 2021, WHD has concluded more than 500 cases that involved retaliation in violation of one of the acts enforced by WHD, recovering more than \$2.1 million in back wages, and benefitting approximately 700 workers. By prioritizing retaliation and using every tool available to protect the ability of workers to assert their rights, WHD empowers workers and makes significant strides in changing organization cultures where intimidation and retaliation proliferate. Cases leading to litigation also place significant demands on district office resources. These types of high impact cases can send a strong signal to employers and industries as well as the communities they protect. Additional resources would ensure WHD can consistently pursue and develop cases with the potential for high impact at the community and industry level.

**Leverage strategic partnerships dedicated to amplifying the effects of enforcement and outreach.** In FY 2024, WHD will increase use of strategic partnerships in achieving its mission. WHD will start by carrying out a comparative analysis of state and local labor standards and worker protection laws, including the scope of worker protections, enforcement capacity, and remedies available. WHD is also developing resources for the field to engage state and local law enforcement partners who can help advance strategies at the regional and local levels. Additional resources would support initial investments in developing partnerships and the resources to fully implement and sustain those relationships. WHD requires resources to support information sharing, regular communication and coordination around cases and strategies, cross-training,

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joint outreach, and education. Combined efforts would amplify the effects of investigations, reach more workers in underserved communities, and achieve greater deterrent effects.

### **Phased Grade Restructure**

In addition to increasing the size of WHD's workforce, WHD is seeking increases above the FY 2023 Revised Enacted Level of \$7,069,000 and 0 FTE to implement a phased restructuring of the grade levels for investigators and managers. These cost increases assume WHD will separately receive the necessary appropriations to employ 1,000 investigators, 250 of whom would be graded as GS-13 senior investigators. This transformative restructure is consistent with the broadened scope, complexity, and skills required for those enforcement positions and will develop a cohort of senior investigators dedicated to developing high impact cases, mentoring staff, and providing leadership on strategic initiatives. Recruiting and retaining talent remains a persistent challenge for the field, and WHD's current grade structure is no longer competitive with similar positions in other Federal and DOL agencies and does not reflect the responsibilities and complexities of conducting investigations that have grown over the years.

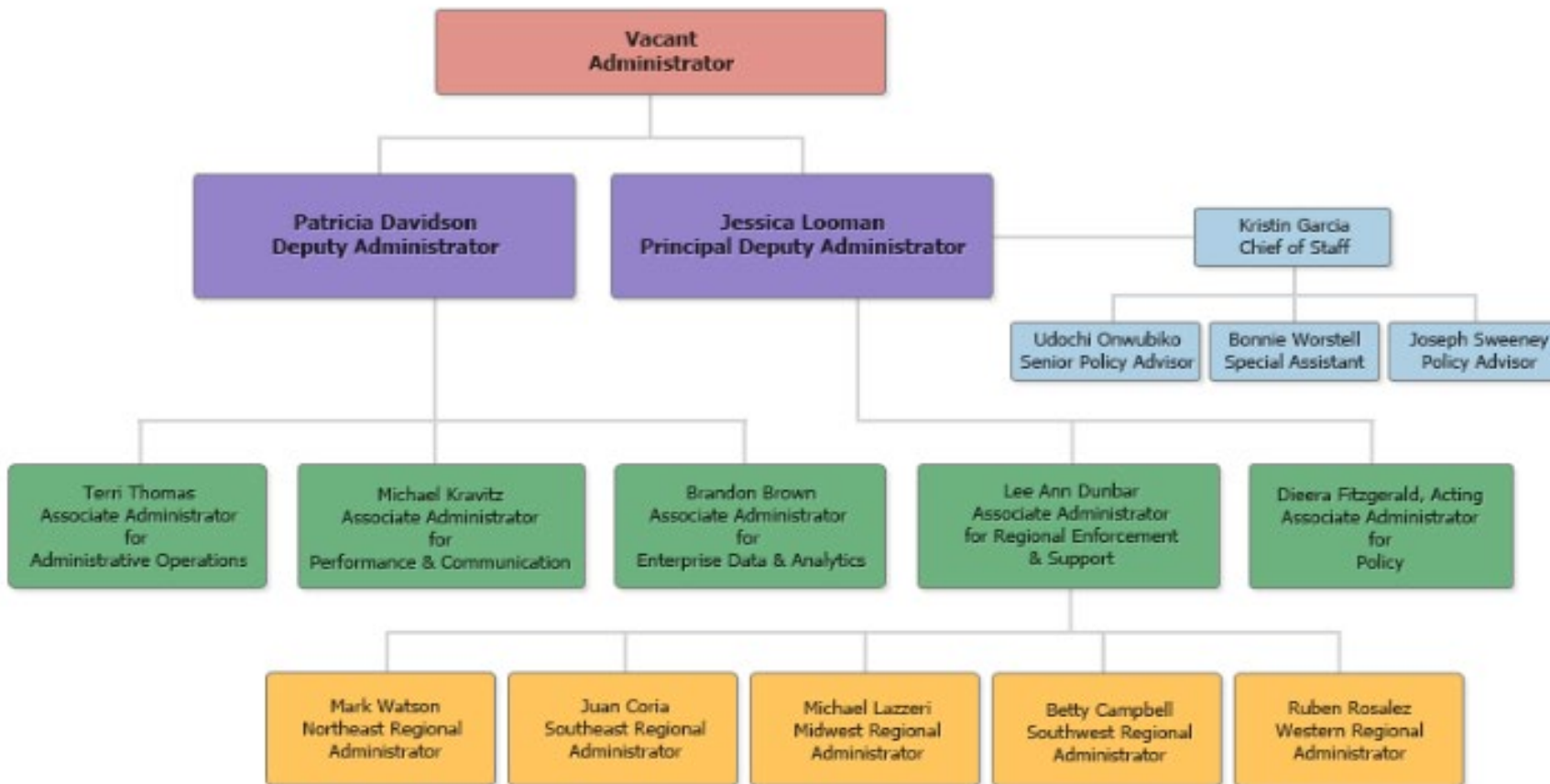
The career advancement opportunities included in this restructuring plan will enable WHD to compete with other Federal agencies and retain its experienced and talented staff to the great benefit of the agency's mission. A modernized grade structure would create additional capacity for driving strategies and approaches that current resources and structures do not effectively support. These approaches include developing an "all of government" mindset by collaborating and coordinating enforcement and outreach with other DOL agencies as well as agencies at the Federal, State, and local level; and ensuring application and enforcement of greatest worker protections. WHD could pursue more litigation strategies through early and frequent coordination with the Office of Solicitor, particularly litigation cases to address systemic compliance issues with the potential for national impact. Senior investigators would play a critical role in ensuring the consistent and strategic use of all available enforcement tools as well as coordinated media strategies around those findings.

### **IT Modernization**

WHD is seeking a total of \$5,197,000 in two-year funds and 0 FTE above the FY 2023 Revised Enacted Level to fully build out all components of the WHD modernized mission support systems. WHD is seeking to build on the progress it is making on the modernization roadmap with critical support from the Office of the Chief Information Officer (OCIO). Increased resources would allow WHD to fully fund all remaining workstreams in the modernization roadmap and decommission the legacy systems. Additionally, an agile approach requires resources to support both the development of new modules and ongoing refinements to modules already deployed. Modernization efforts to date are just a step towards the level of business process reengineering needed for real transformation. WHD has developed a pipeline of talent equipped to develop and apply evidence-based strategies and carry out enforcement in increasingly complex business structures. However, the underlying data environment and technology are not equipped to support the growing and evolving analytical needs of the organization.

# WAGE AND HOUR DIVISION

## ORGANIZATION CHART





## WAGE AND HOUR DIVISION

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2022 Revised Enacted</b>	<b>FY 2023 Revised Enacted</b>	<b>FY 2024 Request</b>	<b>Diff. FY24 Request / FY23 Revised Enacted</b>
<b>Activity Appropriation</b>	<b>251,000</b>	<b>260,000</b>	<b>340,953</b>	<b>80,953</b>
FTE	1,230	1,267	1,656	389

NOTE: FY 2022 reflects actual FTE. Authorized FTE for FY 2022 was 1,260.

### **Introduction**

WHD prioritizes evidence-based strategies in high-violation industries employing essential workers; outreach and education to workers, particularly those in underserved communities; and developing strategic partnerships around the shared goal of protecting workers and improving compliance.

The FY 2024 President’s Budget requests programmatic increases of \$67,678,000 and 389 FTE to support WHD’s role in protecting essential workers and access to economic equity, to unleash the full potential of the WHD workforce, and to advance progress on the agency’s information technology roadmap.

### **Five-Year Budget Activity History**

<b><u>Fiscal Year</u></b>	<b><u>Funding</u></b> (Dollars in Thousands)	<b><u>FTE</u></b>
2019	\$229,000	1,297
2020	\$242,000	1,382
2021	\$246,000	1,340
2022	\$251,000	1,260
2023	\$260,000	1,267

### **FY 2024**

The FY 2024 Budget request seeks programmatic increases of \$67,678,000 and 389 FTE to support WHD’s role in protecting essential workers, improving access to economic equity, ensuring Federal infrastructure investments create quality jobs, and advancing progress on the agency’s information technology roadmap. The FY 2024 total request of \$340,953,000 will support efforts focused on addressing barriers faced by underserved communities, including developing stakeholder partnerships and worker-focused resources to reach those communities. WHD will further strengthen national initiatives focused on combatting exploitative child labor and protecting essential workers, including care workers, warehouse and logistics workers, farm laborers, restaurant workers, residential construction workers, and the range of workers providing support services to building operations. WHD will also ensure that the labor standards protections on federally funded and federally assisted construction projects and Federal service contracts are enforced. WHD will develop and implement stakeholder engagement strategies

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designed to establish and strengthen strategic partnerships around the shared goal of ensuring that workers' rights are protected. WHD will continue strengthening outreach efforts to stakeholders that serve historically underserved, marginalized, and adversely affected communities. WHD is also seeking additional resources in order to maximize back wages collected and distributed to workers, particularly those workers most vulnerable to wage violations and exploitive labor conditions.

The FY 2024 increases will facilitate:

\$25,968,000 to support an additional 175 enforcement FTE to bolster WHD's efforts to be more strategic in enforcement efforts and deliver more impactful results, particularly in key areas including protecting the rights and wages of essential workers, bolstering Family and Medical Leave Act enforcement, protecting nursing mothers, ensuring prevailing wage protections, and combatting exploitative child labor.

\$14,013,000 for 105 direct FTE to sustain and reinforce the hiring levels achieved in FY 2021 and FY 2022, thereby ensuring continued progress in advancing the Secretary's vision. FTE would cover a mix of enforcement positions, including investigators, technicians, and back wage follow-up specialists. The increased resources will support a continued emphasis on cultivating and formalizing partnerships with stakeholders around shared goals of improved compliance. The request will continue bolstering stakeholder and outreach strategies, which produce a variety of results, including enforcement referrals, opportunities to engage workers and employers directly and more effectively, and information on how WHD can better serve workers and businesses.

\$5,197,000 for IT modernization, to fully build out all components of the WHD modernized mission support systems. WHD is seeking to build on the progress it is making on the modernization roadmap with critical support from the Office of the Chief Information Officer (OCIO). Increased resources would allow WHD to fully fund all remaining workstreams in the modernization roadmap and decommission the legacy systems.

\$2,500,000 and 9 FTE to support an increased demand for enforcement and outreach efforts as a result of growth in worker visa programs. This funding will cover five additional WHD investigators and four additional farm labor certification analysts. Allowing WHD to undertake significant outreach, translation, and language services necessary to reach workers and inform them about their rights (in languages they speak), provide resources for WHD to reach employers about their obligations, and fund outreach to U.S. consulates and governments.

\$12,931,000 and 100 FTE to restore and strengthen the WHD workforce. Over the last several years, WHD's total enforcement staff has significantly eroded from the peak level achieved in FY 2013. WHD is operating with one of the lowest investigator levels in the last fifty years and continues to experience a higher-than-average attrition rate (nearly 10%). While WHD has adopted many new and innovative practices during the pandemic, the reduced staffing level results in fewer opportunities to develop impactful cases. Continuing to operate at these levels poses significant risks to the mission—even for an agency whose strategic approach to enforcement recognizes the limitations of the agency's size.

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\$7,069,000 for a phased grade restructure of the grade levels for managers and investigators consistent with the broadened scope, complexity, and skills required for those positions and to develop a cohort of senior investigators dedicated to developing high impact cases, mentoring staff, and providing leadership on strategic initiatives for their office. Recruiting and retaining talent remains a persistent challenge for the field, as evidenced by the high attrition rate (10%). WHD's current grade structure is no longer competitive with similar positions in other Federal and DOL agencies and does not reflect the responsibilities and complexities of conducting investigations that have grown over the years.

### **FY 2023**

The FY 2023 Enacted level provided \$260,000,000 and 1,267 FTE for WHD to conduct worker-focused, evidence-based strategic enforcement. WHD will focus on addressing barriers faced by underserved communities, including developing stakeholder partnerships and worker-focused resources to reach those communities. WHD plans to utilize resources to strengthen national initiatives focused on protecting essential and vulnerable workers and continue efforts to maximize back wages collected and distributed to those workers. Additionally, the agency will develop high impact cases and meeting emerging regulatory and enforcement challenges, ensure that investigators are fully trained and that field offices can dedicate the necessary resources to respond to the growth in worker visa programs and exploitative child labor practices. In particular, the WHD is starting a national strategic enforcement initiative on child labor, using data-focused, worker driven strategies to initiate investigations where child-labor violations are most likely to occur. The Department is also leading an interagency taskforce to combat child labor exploitation. The task force will improve collaboration and information sharing among agencies, such as between the Department and the Department of Health and Human Services. Finally, WHD will advance efforts to modernize the technology that underpins mission-critical enforcement and outreach, significantly improving overall organizational efficiency and effectiveness.

### **FY 2022**

In FY 2022, WHD expanded and strengthened strategic initiatives protecting essential workers, including care workers and workers from underserved communities. WHD increased the focus on stakeholder partnerships who served as trusted intermediaries to workers most vulnerable to labor violations and broadened the reach of WHD's education efforts. WHD continued the Essential Workers Essential Protections program—a robust outreach effort that provided valuable information on ways to address barriers experienced by underserved communities. WHD also prioritized cases involving misclassification of workers as independent contractors, retaliation, and potential human trafficking. To that end, WHD conducted extensive training with its enforcement staff and developed strategies in those industries where violations were most likely to occur. WHD also maintained its progress on efforts to modernize the prevailing wage survey process and strengthen enforcement of Davis Bacon and Related Acts—all of which furthered WHD's ability to address the increased scope of Federal contract projects which resulted from the Bipartisan Infrastructure Law. WHD continued to make incremental progress on its IT modernization roadmap.

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<b>WORKLOAD AND PERFORMANCE SUMMARY</b>					
		<b>FY 2022 Revised Enacted</b>		<b>FY 2023 Revised Enacted</b>	<b>FY 2024 Request</b>
		<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Wage and Hour Division</b>					
<b>Strategic Goal 2 - Ensure Safe Jobs, Essential Protections, and Fair Workplaces</b>					
<b>Strategic Objective 2.2 - Protect workers' rights.</b>					
WHD-E-07	Percent of compliance actions associated to a strategic initiative	65%	73%	67%	68%
WHD-SEV-01	Percent of FLSA compliance actions (excluding conciliations) with severity score of 30 or more	21%	26%	25%	26%
WHD-IMP-01	Percent of back wages paid to workers	79%	86%	82%	85%
WHD-CA-07	Percent of outreach events of a target audience size associated with a strategic initiative	--	--	60%	61%
WHD-EQ-02	Percent of compliance actions in industries with a large number of workers from underserved communities	--	77%	78%	79%

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined [p] - Projection



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## **Workload and Performance Narrative**

WHD manages performance using a balance of measures to advance priorities, drive evidence-based strategies, and achieve impact. Performance targets aim for continuous improvement and stretch goals. By FY 2024, WHD will have established baseline results for measures in the FY 2022-2026 DOL Strategic Plan.

### **Protecting Essential Workers**

With increased capacity for data analytics, research, stakeholder engagement, and coordination, WHD continues to strengthen strategic initiatives protecting essential workers. In FY 2023, WHD is aiming for 67 percent of all compliance actions to be associated with strategic initiatives with an increase to 68 percent in FY 2024 at the agency request level (WHD-E-07). WHD uses industry-level strategic initiatives to develop and implement comprehensive strategies covering enforcement, outreach, stakeholder engagement, and media communications. By establishing positions dedicated to coordinating industry-level strategies and impact cases, WHD can increase the proportion of cases with far-reaching impacts and sustained deterrent effects (WHD-SEV-01).

### **Increase in Strategic Outreach**

By increasing the proportion of initiative outreach events of a target audience size (WHD-CA-04), WHD will also ensure that the majority of its outreach is impactful and focused on essential workers and underserved communities. Those activities will provide critical information for improving enforcement strategies and case selection. Outreach as part of strategic initiatives aims to increase the use of strategic partnerships focused on the shared goal of improving compliance. Increased investments in outreach, compliance and enforcement staff will allow WHD to develop and sustain a broader range of strategic partnerships furthering WHD outcomes.

### **Advance Equity-Informed Strategies**

Increased resources will support the additional engagement required to break down barriers to underserved communities and develop cases involving worker populations that are least likely to complain or to know their rights. In FY 2022, WHD revised the methodology for the equity measure to strengthen the focus on reaching underserved communities as part of current strategic initiatives. The updated methodology also provides a more accurate and complete representation of compliance actions in industries that employ low-paid workers from underserved communities (WHD-EQ-01).

### **Increase Back Wages to Workers**

WHD is taking steps to ensure every worker due wages receives them, and to that end, will measure the percent of back wages actually paid to workers (WHD-IMP-01). The vast majority of back wages due to employees are paid directly by the employers. WHD receives those wages due to a worker that the employer was unable to locate, and those workers may be among the most vulnerable to violations. These workers may be highly mobile, and as a result, may be difficult to find if no longer employed by the business in violation. Increased resources will support agency efforts to reduce the amount of unclaimed wages. WHD will use those resources to implement steps on the front-end of the investigative process to ensure workers will be

## WAGE AND HOUR DIVISION

locatable and to strengthen back wage follow-up by increasing the number of specialists dedicated to those activities.

### **Effective Resource Management**

For FY 2023, WHD has discontinued setting performance targets for the total number of concluded compliance actions—which represents an important shift in how WHD manages performance. By managing data as a strategic asset, WHD continues to strengthen internal monitoring and analysis of data that is critical to day-to-day decision making around programs and operations. These include a range of data and measures around productivity, efficiency, and timeliness. In FY 2021, WHD undertook a rigorous analysis of compliance actions data to understand the effects of productivity measures on outcomes, particularly given the decline in enforcement staff. The analysis revealed that cases involving more hours and expertise vastly outperformed the significantly larger subset of cases with shorter-timeframes, both in terms of back wages collected and workers impacted (WHD-BW-01). In other words, pressing for increasing numbers of cases does not appear to be the most effective way to improve overall compliance.

Moving forward, WHD will prioritize case quality and creating opportunities for the development of high impact cases, including those involving particularly vulnerable populations and egregious working conditions, over a continued emphasis on an ever-increasing number of compliance actions. WHD's increased capacity for data analytics and reporting means decision-makers at all levels of the organization are working with better information for managing programs and operations. These tools provide managers with the needed flexibility to continually adapt and optimize resources towards the greatest impact. Also importantly, given the time required to train and develop a new investigator, compliance actions may not increase for two to three years after onboarding large numbers of additional investigators—particularly following a period of significant attrition.

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<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2022 Revised Enacted</b>	<b>FY 2023 Revised Enacted</b>	<b>FY 2024 Request</b>	<b>Diff. FY24 Request / FY23 Revised Enacted</b>
11.1	Full-time permanent	125,461	128,520	173,701	45,181
11.3	Other than full-time permanent	802	662	662	0
11.5	Other personnel compensation	3,100	3,184	3,184	0
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>129,363</b>	<b>132,366</b>	<b>177,547</b>	<b>45,181</b>
12.1	Civilian personnel benefits	50,138	49,032	76,643	27,611
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	2,464	1,500	1,500	0
22.0	Transportation of things	6	8	8	0
23.0	Rent, Communications, and Utilities	0	0	0	0
23.1	Rental payments to GSA	13,500	12,700	12,700	0
23.2	Rental payments to others	8	3	3	0
23.3	Communications, utilities, and miscellaneous charges	1,000	640	640	0
24.0	Printing and reproduction	600	570	570	0
25.1	Advisory and assistance services	3,200	1,805	1,805	0
25.2	Other services from non-Federal sources	1,700	1,779	1,779	0
25.3	Other goods and services from Federal sources 1/	44,287	58,219	61,183	2,964
25.4	Operation and maintenance of facilities	0	10	10	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	1,634	0	5,197	5,197
26.0	Supplies and materials	1,100	425	425	0
31.0	Equipment	1,000	270	270	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	1,000	673	673	0
	<b>Total</b>	<b>251,000</b>	<b>260,000</b>	<b>340,953</b>	<b>80,953</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	38,386	58,219	61,183	2,964
	DHS Services	6,034	0	0	0
	Services by DOL Agencies	-133	0	0	0

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## CHANGES IN FY 2024

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$6,421
Personnel benefits	3,928
Employee health benefits	0
Moving allowance	0
Federal Employees' Compensation Act (FECA)	-38
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	2,964
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$13,275**

**Net Program** **\$67,678**

**Direct FTE** **389**

	Estimate	FTE
<b>Base</b>	<b>\$273,275</b>	<b>1,267</b>
<b>Program Increase</b>	<b>\$67,678</b>	<b>389</b>
<b>Program Decrease</b>	<b>\$0</b>	<b>0</b>